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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/576,326	01/24/2007	Saadettin Sel	12007-0070	9415
22902 7590 10/15/2008 CLARK & BRODY 1090 VERMONT AVENUE, NW SUITE 250 WASHINGTON, DC 20005				
EXAMINER				
BOOTH, MICHAEL JOHN				
ART UNIT		PAPER NUMBER		
4158				
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10/15/2008		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/576,326

Applicant(s)

SEL ET AL.

Examiner

MICHAEL J. BOOTH

Art Unit

4158

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-19 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 19 April 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SF/ICE)
- 4) ☐ Interview Summary (PTO-413)
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: ____
- Paper No(s)/Mail Date 01/24/2007.

DETAILED ACTION

Specification

The abstract of the disclosure is objected to because the title is labeled incorrectly as "summary" and needs to be labeled "abstract". Correction is required. See MPEP § 608.01(b).

The disclosure is objected to because of the following informalities: the list of reference numbers on page 13 does not belong in the specification, the entire page should be removed.

Appropriate correction is required.

Claim Objections

Claim 7 is objected to because of the following informalities: "[[(32)]]" should be "[[(32)]]", other errors may apply. Appropriate correction is required. See MPEP 714 and 37 CFR 1.121.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 12-13 and 16-17 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claims 12 and 13, the phrases "such as" and "e.g." render the claim indefinite because it is unclear whether the limitations following the phrase are part of the claimed invention. See MPEP § 2173.05(d). Regarding claim 16 and 17, it is unclear to the examiner what the applicant is claiming when claiming a spherical and non-spherical segment of a Fresnel lens.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

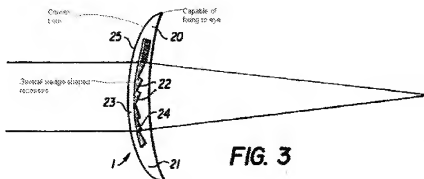
A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-8, 11, 13, 16 and 17 (as best understood) are rejected under 35 U.S.C. 102(b) as being anticipated by Large (US Patent 5,712,721; hereinafter Large).

Claims 1 & 3:

Large discloses a lens device for the treatment of visual impairments comprising a fixing element, such as the ends, for fixing in the eye, at least one convex lens (25) and several wedge-shaped recesses (22). Regarding claim 3, Large discloses below that the wedge-shaped recesses feature different angles. The different angles of the wedge-shaped recesses can be seen in FIG. 3 below.



Claims 2 & 4:

Large discloses using a lens designed as a segment of a Fresnel lens. Regarding claim 4, Large further discloses a protective coating layer that encapsulated the lens, thus filling the recesses and preventing reflection of light on the edges of the lens. (column 2, lines 52-63)

Claims 5 & 11:

Large discloses a coating and/or material for the device to feature a refraction index equal to the chamber fluid. Regarding claim 11, Large further discloses a transparent fluid (24) that is filled in the chamber (see FIG. 3) whose refraction index is also equal to that of the coating and/or material. (column 4, lines 4-8).

Claims 6-8:

Large discloses a lens with an anterior and posterior chamber separated by a transparent wall, where the anterior chamber not facing the retina features at least one convex elastic element (column 3, lines 40-44) where alignment of the curve allows the focal width of this element is variable. (See FIG. 2). The word "chamber" is defined as a "natural or artificial enclosed space or cavity" by Merriam-Webster's online dictionary. Regarding claim 7, Large further discloses a lens with a supporting element for the recesses so that the inclination, as in when placing an object up, such as (23) against the recesses (22), the inclination angle is adjusted to meet that of the recesses depending on their angle. (See FIG. 4). Regarding claim 8, it is inherent that the supporting element is pre-stressed against rotation.

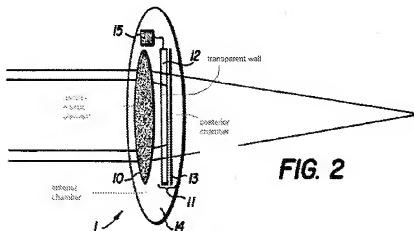


FIG. 2

Claim 13 (as understood):

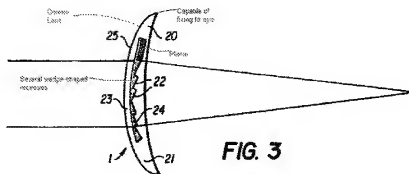
Large discloses a further optic means, such as a polarizer layer (13), that can be placed in the path of rays before or behind the lens device. (See FIG. 2).

Claim 16 (as understood):

Large discloses a lens where one side has several wedge-shaped recesses and the other side has Fresnel lenses (10) capable of containing spherical or non-spherical segments depending on the lens chosen. (column 2, lines 55-59).

Claim 17 (as understood):

Large discloses a lens where one side is planar (See FIG. 3 below) and the other side has a superposition of wedge-shaped recesses and one or several Fresnel lenses capable of containing spherical or non-spherical segments depending on the lens chosen. (column 2, lines 55-59).



Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 9-10, 12 and 18-19 (as best understood) are rejected under 35 U.S.C. 103(a) as being unpatentable over Large as applied to claim 6 above, and further in view of Skottun et al (US Patent 5,489,302; hereinafter Skottun).

Claims 9 & 18:

Large fails to disclose a chamber connected to a supply and removal canal, a pump or volume modification means via valve(s) [claim 18: with a characteristic curve], so elements undergo a change of form when the pump or volume means is activated. However, Skottun discloses a chamber with a volume modification means [claim 18: with a characteristic curve (10)] thus changing the form when activated. (column 8, line

66 - column 9, line 16). There is motivation to combine the two references as they are in the same field of endeavor. Thus, it would have been obvious to one having ordinary skill in the art at the time of the invention to modify Large with a volume modification means to allow a lower force to act on the membrane. Skottun further discloses use of Boyle's law to record performance or measurements (column 9, lines 27-38). It is inherent that the pressure in the eye can be determined through Boyle's law.

Claim 10:

Large discloses a surface (23) capable of being assigned to the wedge-shaped recesses (22) where an elastic element is at (or assigned) to each of these inclined surfaces and when a surface undergoes a rotation when the pump or volume modification means is activated, the focal point is designed to be redirected on the retina. This is inherent as the angle would have been modified when the volume modification means is activated.

Claim 12 (as understood):

Large discloses implanting batteries capable of providing energy to the volume modification means. (column 5, lines 14-20 and 47-48).

Claim 19:

Large discloses a coating and/or material for the device to feature a refraction index equal to the chamber fluid. Large further discloses a transparent fluid (24) that is

filled in the chamber (See FIG. 3) whose refraction index is also equal to that of the coating and/or material. (column 4, lines 4-8).

Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over Large as applied to claim 1 above, and further in view of Faubl (US Patent 6,244,707; hereinafter Faubl).

Claim 14:

Large fails to disclose a lens with a UV-protective film for protection of the retina from UV rays. However, Faubl discloses a lens with a UV-protective film for protection of the retina (column 1, lines 10-25). There is motivation to combine the two references as they are both in the same field of endeavor. Thus, it would have been obvious to one having ordinary skill in the art at the time of the invention to modify Large with a UV-protective layer to protect the interior of the eye.

Claim 15 is rejected under 35 U.S.C. 103(a) as being unpatentable over Large as applied to claim 1 above, and further in view of Kelman (US Patent 4,828,558; hereinafter Kelman).

Claim 15:

Large fails to disclose a lens designed to be foldable or elastic for reduction of the sclera tunnel incision. However, Kelman discloses an intraocular lens that is

foldable or elastic to allow for a reduction of the sclera tunnel incision (column 3, lines 55-62). There is motivation to combine the two references as they are in the same field of endeavor. Thus, it would have been obvious to one having ordinary skill in the art at the time of the invention to modify Large's lens with a foldable or elastic material to allow for a smaller incision during implant.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MICHAEL J. BOOTH whose telephone number is (571)270-7027. The examiner can normally be reached on Monday thru Thursday, 8:00am - 4:00pm EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gary Jackson can be reached on (571)272-4697. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

09/24/2008
/M. J. B./
Examiner, Art Unit 4158

/Gary Jackson/
Supervisory Patent Examiner
Art Unit 4158